

AMENDED IN ASSEMBLY APRIL 27, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1053

Introduced by Assembly Member Thomson
(Principal coauthor: Assembly Member Zettel)
(Coauthors: Assembly Members Wayne and Wildman)

February 25, 1999

An act to amend Section 1367.24 of the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1053, as amended, Thomson. Health care service plans: drugs.

Existing law provides for the licensure and regulation of health care service plans by the Department of Corporations, and provides that a willful violation of the regulatory provisions is subject to criminal sanction.

Existing law requires every health care service plan that provides prescription drug benefits to maintain an expeditious process by which prescribing providers may obtain authorization for a medically necessary nonformulary prescription drug pursuant to designated procedures.

This bill would prohibit a health care service plan from ~~(1)~~ including the cost of medically necessary oral and injectable prescription drugs in the capitation and related payment of a prescribing or providing health care provider, medical group, ~~individual~~ independent practice association, or other prescribing entity ~~and (2)~~ entity. *The bill would prohibit a*

health care service plan, or any pharmaceutical benefit management company contracting with the plan, from requiring any prescribing or providing health care provider, medical group, ~~individual~~ independent practice association, pharmacist, or other prescribing entity to assume any financial responsibility for the oral and injectable drugs. *The bill would change references to “individual practice associations” in these provisions to refer instead to “independent practice associations.”*

By imposing new requirements on health care service plans, this bill would change the definition of a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1367.24 of the Health and Safety
2 Code is amended to read:
3 1367.24. (a) Every health care service plan that
4 provides prescription drug benefits shall maintain an
5 expeditious process by which prescribing providers may
6 obtain authorization for a medically necessary
7 nonformulary prescription drug. On or before July 1,
8 1999, every health care service plan that provides
9 prescription drug benefits shall file with the department
10 a description of its process, including timelines, for
11 responding to authorization requests for nonformulary
12 drugs. Any changes to this process shall be filed with the
13 department pursuant to Section 1352. Each plan shall
14 provide a written description of its most current process,
15 including timelines, to its prescribing providers. For
16 purposes of this section, a prescribing provider shall
17 include a provider authorized to write a prescription,



1 pursuant to subdivision (a) of Section 4040 of the Business
2 and Professions Code, to treat a medical condition of an
3 enrollee.

4 (b) Any plan that disapproves a request made
5 pursuant to subdivision (a) by a prescribing provider to
6 obtain authorization for a nonformulary drug shall
7 provide the reasons for the disapproval in a notice
8 provided to the enrollee. The notice shall indicate that
9 the enrollee may file a grievance with the plan if the
10 enrollee objects to the disapproval, including any
11 alternative drug or treatment offered by the plan. The
12 notice shall comply with subdivision (b) of Section
13 1368.02.

14 (c) The process described in subdivision (a) by which
15 prescribing providers may obtain authorization for
16 medically necessary nonformulary drugs shall not apply
17 to a nonformulary drug that has been prescribed for an
18 enrollee in conformance with the provisions of Section
19 1367.22.

20 (d) The process described in subdivision (a) by which
21 enrollees may obtain medically necessary nonformulary
22 drugs, including specified timelines for responding to
23 prescribing provider authorization requests, shall be
24 described in evidence of coverage and disclosure forms,
25 as required by subdivision (a) of Section 1363, issued on
26 or after July 1, 1999.

27 (e) Every health care service plan that provides
28 prescription drug benefits shall maintain, as part of its
29 books and records under Section 1381, all of the following
30 information, which shall be made available to the
31 commissioner upon request:

32 (1) The complete drug formulary or formularies of the
33 plan, if the plan maintains a formulary, including a list of
34 the prescription drugs on the formulary of the plan by
35 major therapeutic category with an indication of whether
36 any drugs are preferred over other drugs.

37 (2) Records developed by the pharmacy and
38 therapeutic committee of the plan, or by others
39 responsible for developing, modifying, and overseeing
40 formularies, including medical groups, individual

1 *independent* practice associations, and contracting
2 pharmaceutical benefit management companies, used to
3 guide the drugs prescribed for the enrollees of the plan,
4 that fully describe the reasoning behind formulary
5 decisions.

6 (3) Any plan arrangements with prescribing
7 providers, medical groups, ~~individual~~ *independent*
8 practice associations, pharmacists, contracting
9 pharmaceutical benefit management companies, or
10 other entities that are associated with activities of the plan
11 to encourage formulary compliance or otherwise manage
12 prescription drug benefits.

13 (f) If a plan provides prescription drug benefits, the
14 department shall, as part of its periodic onsite medical
15 survey of each plan undertaken pursuant to Section 1380,
16 review the performance of the plan in providing those
17 benefits, including, but not limited to, a review of the
18 procedures and information maintained pursuant to this
19 section, and describe the performance of the plan as part
20 of its report issued pursuant to Section 1380.

21 (g) The commissioner shall not publicly disclose any
22 information reviewed pursuant to this section that is
23 determined by the commissioner to be confidential
24 pursuant to state law.

25 (h) Nothing in this section shall be construed to
26 restrict or impair the application of any other provision
27 of this chapter, including, but not limited to, Section 1367,
28 which includes among its requirements that a health care
29 service plan furnish services in a manner providing
30 continuity of care and demonstrate that medical
31 decisions are rendered by qualified medical providers
32 unhindered by fiscal and administrative management.
33 Subdivision (c) of Section 1367.24, which establishes an
34 exemption if a drug has been prescribed in conformance
35 with Section 1367.22, shall have no effect unless Section
36 1367.22 of the Health and Safety Code, as added by
37 Assembly Bill 974 of the 1997–98 Regular Session, takes
38 effect on or before July 1, 1999.

39 (i) On or after January 1, 2000, a health care service
40 plan contract shall not include the cost of medically

1 necessary oral and injectable prescription drugs,
2 including pediatric vaccines, in the capitation and related
3 payment of a prescribing or providing health care
4 provider, medical group, ~~individual~~ *independent*
5 practice association, or other prescribing entity. A health
6 care service plan, *and any pharmaceutical benefit*
7 *management company contracting with the plan*, shall
8 not require any prescribing or providing health care
9 provider, medical group, ~~individual~~ *independent*
10 practice association, pharmacist, or other prescribing
11 entity to assume any financial responsibility for the oral
12 and injectable drugs, including pediatric vaccines.

13 SEC. 2. No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution because the only costs that may be incurred
16 by a local agency or school district will be incurred
17 because this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition
21 of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.